



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
LUKE H. BRITT**

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317) 234-0906
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

September 18, 2013

Ms. Jean D. Schoknecht
3332 South Meridian Street
Indianapolis, Indiana 46217

Re: Formal Complaint 13-FC-245; Alleged Violation of the Access to Public Records Act by the Marion County Superior Court 1

Dear Ms. Schoknecht:

This advisory opinion is in response to your formal complaint alleging that the Marion County Superior Court 1, the Honorable David A. Shaheed presiding, ("Court") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Andrea Brandes Newsom, Court Administrator, responded in writing to your formal complaint. Her response is enclosed for your reference.

BACKGROUND

In your formal complaint, you indicated that on June 14, 2013, you hand-delivered a written request for records to the Court. Specifically, you asked for the opportunity to listen to and/or record an electronic copy of a court proceeding.

In response to your formal complaint, Ms. Newsom has conceded the Court failed to properly acknowledge your in-person delivery of your record request and has advised this Office a time had been set up for you to perform an audio inspection of the recording.

ANALYSIS

The public policy of the APRA states that "(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." *See* I.C. § 5-14-3-1. The Court is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Court's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* I.C. § 5-14-3-3(a); § 5-14-3-9(c). If the request is delivered in person and the agency does not respond within twenty-four hours, the request is deemed denied. *See* I.C. § 5-14-3-9(a). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply.

The Court has stated it unintentionally disregarded your request due to the file-stamped copy of your request not being presented to Judge Shaheed for his consideration. In effect, this request is deemed denied under I.C. § 5-14-3-9(a). Since your formal complaint to this Office has alerted the Court of the situation, the Court has made arrangements for you to inspect the record of the proceeding. I trust this arrangement is in satisfaction of your request and this matter has been resolved between the parties.

CONCLUSION

Based on the foregoing reasons, it is my opinion the Court acted contrary to the APRA by failing to respond to your in-person delivery of your request within 24 hours. This misunderstanding has since been resolved.

Regards,

A handwritten signature in black ink, appearing to read 'L. Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor

cc: Andrea Brandes Newsom